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SIPDIS

STATE FOR AF/FO AND AF/RSA - LOUIS MAZEL, LAURA GRIESMER,
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SUBJECT: MADAGASCAR AND COMOROS: POLICIES AND ATTITUDES ON
SEXUAL ORIENTATION

REF: 09 STATE 130765

¶1. SUMMARY: In response to reftel, Post is providing information on official policies and public attitudes regarding sexual orientation and gender identity for both Madagascar and Comoros. Homosexual acts are illegal in Madagascar for individuals under the age of 21, although the policy is reportedly only applied against those engaging in prostitution. In Comoros, homosexual acts are illegal at any age, but remain hidden and out of the court system due to social pressure in this devoutly Muslim country. Neither country is engaged in any current debate on the subject, or considering any changes in their legislation. END SUMMARY.

MADAGASCAR

¶2. Sexual orientation and gender identity are not widely discussed in Madagascar, with public attitudes ranging from tacit acceptance to outright physical violence, particularly against transvestite sex workers. Contacts at local NGO "Aids Alliance" in Antananarivo state that there has never been any open debate concerning homosexuality in Madagascar, and that most organizations that work with the GLBT community do so as health service providers, often in the context of their work to combat the spread of HIV/AIDS. GLBT individuals who are not sex workers tend to keep their orientation secret, and often marry with the opposite sex. Transvestite and gay sex workers are frequently the target of aggression, ranging from verbal abuse to stone throwing and even murder, according to Aids Alliance. In recent years, there has been an increased awareness of "gay pride" through positive media exposure and even a march in central Tana, but general attitudes are slow to change.

¶3. Article 331 of Madagascar's Penal Code (from June 17, 1972, revised June 30, 1998) provides for a prison sentence of two to five years and a fine of two to ten million ariary (USD 1,000 to 5,000) for acts that are "indecent or against nature with an individual of the same sex under the age of 21". These terms are understood to include any sexual contact up to and including intercourse, but are allegedly only used to prosecute transvestite sex workers under the age of 21. There are reports of official abuses occurring at the community level, such as administrative officials denying health services to transvestite men or breaking confidentiality agreements, but this behavior has no legal basis, and would qualify as discrimination if it were pursued.

COMOROS

¶4. Homosexual acts are illegal in Comoros, regardless of age. Article 318 of the Comoran Penal Code (from May 15, 1981, revised May 8, 1982 and September 18, 1995) provides a punishment of up to five years imprisonment, and a fine of 50,000 to 1,000,000 Comoran francs (USD 166 to 3,333) for

acts that are "indecent or against nature with an individual of the same sex". As the penal codes of Madagascar and Comoros share a common ancestor in French law, the wording is nearly identical - except that the Comoran version omits any reference to age.

¶15. Post is unaware of any cases of this nature having ever come before the courts, however, and Comoros does not have the active gay sex worker community that Madagascar has. Societal pressure in this heavily Muslim country is such that homosexuals do not openly discuss their sexual orientation, and thus no public debate on the issue has been held.

MARQUARDT